

**CITY OF SAN ANTONIO
DEPARTMENT OF PARKS AND RECREATION
SUNKEN GARDEN THEATER
POLICIES AND REGULATIONS**

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June 15, 2005

**SUNKEN GARDEN THEATER
ALPINE ST. & NORTH ST. MARY'S**

The Director, Department of Parks and Recreation, or his designated Facility Representative, has the authority to stop any contracted event which does not comply with these policies, the pertinent ordinance(s), and/or the official signed License Agreement.

1. RESERVATIONS AND RESERVATION DEPOSIT

The Sunken Garden Theater is open for reservations daily year-round, on a first-come, first-served basis. Inquiry regarding reservations can be accomplished via telephone or letter, **firm reservation of Sunken Garden Theater** can only be secured by submission of two (2) copies of the Application Form (Exhibit B) and the appropriate deposit amount(s). **Failure to submit Application Form and the minimum required Reservation Deposit during this 5-day time period will result in cancellation of reservation.**

The previous Hold Policy for Sunken Garden Theater will no longer be allowed. In order to secure Firm Reservation of an event date for use of the Sunken Garden Theater, all organizations, groups, and individuals requesting dates must submit the above stated Application Form and Reservation Deposit.

Organizations requesting two or more consecutive dates must submit Application Form and Reservation Deposit at least 30 calendar days in advance of the first date requested. Failure to do so will result in cancellation of the reservation.

Any Organization with a firm reservation of Sunken Garden Theater must enter into a license agreement for said date no later than ninety (90) days prior to event. **Failure to enter into Short Term License Agreement within this time period will result in cancellation of reservation.** Upon entering into Short Term License Agreement for use of Sunken Garden Theater, licensee must submit required deposit as stated in Section 1.7 of license agreement as follows:

- | | |
|----------------|--|
| Class 1 | Licensee must provide bond or cashier's check payable to the City of San Antonio of not less than \$6,000.00 (six thousand dollars), with one-half of said deposit (\$3,000.00) due at least ninety (90) days prior to date of scheduled event, and remaining one-half portion (\$3,000.00) due thirty (30) days prior to the date of scheduled event. |
| Class 2 | Licensee must provide a bond or cashier's check payable to the City of San Antonio of not less than \$3,000.00 (three thousand dollars) at least ninety (90) days prior to date of scheduled event. |

2. CHALLENGED BOOKINGS

If any potential Licensee has a Reservation for any booking date, and another potential Licensee inquires on availability of said date the following will occur:

- A. The potential Licensee holding the Reservation will be provided the opportunity to execute a Short Term License Agreement for use of Sunken Garden Theater within a three working day period. At the time of execution, Licensee will be required to submit payment of the following deposit fees as required by Section 1.7 of the Short Term License Agreement:

Class 1 \$6,000 (six thousand-dollar) bond or cashier's check payable to the City of San Antonio

Class 2 \$3,000 (three thousand-dollar) bond or cashier's check payable to the City of San Antonio

Class 3 \$500 (five hundred-dollar) use fee

- B. If within the allowed 72 hours (three working days), the potential Licensee does not execute a Short Term License Agreement and/or submit payment to the City of the above stated deposit, the potential Licensee which inquired into said date will be given the opportunity to execute a Short Term License Agreement for use of Sunken Garden Theater within a three working day period. At the time of execution, Licensee will be required to pay the following non-refundable fees:

Class 1 \$6,000 (six thousand-dollar) bond or cashier's check payable to the City of San Antonio

Class 2 \$3,000 (three thousand-dollar) bond or cashier's check payable to the City of San Antonio

Class 3 \$500 (five hundred-dollar) use fee

Failure to comply will result in reservation reverting back to the first holder.

- C. **When License Agreement is signed on a Challenged Booking, the following statement will be agreed to and initialed by the authorized signatory for the Licensee:**

"This date has been requested by another organization. Should Licensee cancel this License Agreement, the minimum rental fee, is non-refundable."

3. LICENSE AGREEMENT

A License Agreement for use of Sunken Garden Theater (Exhibit C) must be signed by Licensee or Licensee's designated representative and the Director, Department of Parks and Recreation, or his designated Facility Representative. License Agreement must be signed a minimum of 5 working days preceding event date or the first date of a multi-date sequence event. At time of execution, Licensee or his representative will provide a deposit as required by Section 1.7 of License Agreement in the form of a bond or cashier's check. Said Deposit will cover rental fees owed, cleanup fee, and porta-john fee. Checks will be retained until two days following event, at which time Licensee is to pay any and all fees and expenses for use of Facility. If Licensee fails to pay any and all fees City will deposit said Deposit, retaining any unpaid fees, and submit a check to Licensee for remainder of Security Deposit.

4. CLASSES OF USE

Four Classes of use for the Sunken Garden Theater have been established and authorized by City Ordinance No. 48169, passed and approved on June 23, 1977. Fee increases for each Class have been authorized two times, most recently by City Ordinance No. 92517, passed and approved on September 14, 2000. Additionally, on March 29, 2001 City Council passed Ordinance No. 93687 authorizing maximum and minimum fees for each class of event. Definitions for each Class, as stated in above referenced City Ordinances, are as follows:

- Class 1** Commercial Events which feature outdoor live or recorded amplified voices or music for which admission fees are charged.
- Class 2** Commercial Events by Non-Profit groups for which admission fees are charged. Events will only be certified as Non-Profit for use of the Sunken Garden Theater if a minimum of fifty percent (50%) of all gross proceeds of the events go directly to a Federally designated 501c3 Non-Profit Organization.
- Class 3** Events for which no admission is charged and which do not involve live or mechanically amplified music.
- Class 4** Events sponsored or co-sponsored by the City of San Antonio to which a donation may or may not be solicited.

5. RENTAL FEES

The following rental rates for each Class of event are established by City Ordinance 92517, passed and approved on September 14, 2000, with maximum and minimum fees established by City Ordinance No. 93687, passed and approved on March 29, 2001:

- Class 1** Licensee will pay fifteen percent (15%) of all gross sales by the facility renter, to include but not be limited to admission fees, merchandise, food and beverage concession sales and booth rentals, up to a maximum of \$6,000.00 per event. Facility renter will pay a minimum of \$3,000.00 (three thousand dollars) per event regardless of gross sales.
- Class 2** Licensee will pay ten percent (10%) of all gross sales by the facility renter, to include but not be limited to admission fees, merchandise, food and beverage concession sales and booth rentals, up to a maximum of \$3,000.00 (three thousand dollars) per event. Facility renter will pay a minimum of \$1,500 (one thousand five hundred dollars) per event regardless of gross sales.
- Class 3** Licensee will pay ten percent (10%) of all gross sales by the facility renter, to include but not be limited to admission fees, merchandise, food and beverage concession sales and booth rentals, up to a maximum of \$1,500.00 (one thousand five hundred dollars) per event. Facility renter will pay a minimum of \$500 (five hundred dollars), per event regardless of gross sales.
- Class 4** No rental fees are charged.

The licensee is also responsible for the purchase of an electrical permit if any electrical work is needed. This permit can be purchased at the City Development & Business Services Center, 1901 S. Alamo. The cost will depend on the number of electrical runs and outlets. The average cost is \$50.00 The telephone number at the Development Services Center is 210-207-1111.

6. PENALTIES

Licensee is required to provide a bond or cashier's check as a Deposit as required by Section 1.7 of license agreement. Said bond or cashier's check shall be deposited with the Director, Department of Parks and Recreation or his designated Facility Representative.

The following penalties are established by Ordinance for Class 1, 2, and 3 Events:

The total bond will be forfeited if clean up costs or loss of and/or damages to Licensed Facility, facility grounds, or facility equipment caused by Licensee, his guests, employees, contractors and/or subcontractors exceed the amount of the Security Deposit or if the contract is violated in whole or in part. Failure to comply or to insure compliance with applicable laws, ordinances, rules, regulations, and policies may result in a forfeiture of the Security Deposit and/or other applicable penalty, which may include preclusion from any future booking of the theater.

7. FINAL RENTAL PAYMENTS

With the amount of the deposit being deducted from the entire License fee, the payment of all moneys due will be as follows:

- Class 1** Within ten (10) working days following the event.
- Class 2** Within ten (10) working days following the event.
- Class 3** Within ten (10) working days following the event.

8. PROVISIONS BY THE CITY OF SAN ANTONIO

The City of San Antonio will provide the following to the Licensee as directed by Ordinance:

- A. stage and the dressing rooms
- B. seating area and grounds
- C. four (4) public restrooms, (two with handicapped access) and paper supplies
- D. normal electric and water utility service, (normal electric utility service does not mean hookup to power for stage sound and lighting or provision of electric harness for concession booth hookup; both of these must be provided by Licensee, utilizing certified electrician with all necessary and applicable permits
- E. one (1) Facility Representative, one (1) Security Coordinator and one (1) custodian for the term of the license

9. PROVISIONS BY THE LICENSEE

The Licensee as directed by Ordinance will provide the following:

- A. A minimum of twelve (12) security personnel to control parking and crowds
- B. All sound and lighting equipment for the event
- C. a Deposit as required by Section 1.7 of Short Term License Agreement
- D. All Class II licensees must submit Affidavit verifying donation of 50% of gross proceeds to said Non-Profit.
- E. Certificate of Liability as stated in License Agreement
- F. A minimum of two (2) foam-type fire extinguishers each in a prominent location at either of the stage wings

- G. Cleanup of the facility following the event to include removal of debris from the facility, at a cost of \$725 per day of the event
- H. Employment of a City-certified electrician if modification is desired to the existing electric system during the term of the License and/or if Licensee desires power harness furnished for concession booths
- I. Additional portable restrooms (Porta-Johns) at a cost of \$172 per day of the event
- J. Name of the contact person of the agency handling ticket sales if rental is Class I or Class II.

10. PARKING

There are three areas for parking in or near the theater. They are as follows:

- (1) Parking for Licensee's Production Staff: A maximum of 10 vehicles may park within the service gate on the North Entry to the Theater. When parking, all vehicles must be located next to hill leading to the Japanese Sunken Gardens and well away from the service road. This is a mandatory fire lane and must be kept open.
- (2) Parking for attendees: The large lot south of the facility and behind the Tuesday Musical Club is the primary parking lot for Theater events.
- (3) Parking for attendees: The main parking lot in Brackenridge Park, adjacent to the Carousel and Train Station is available for parking for Theater events.
- (4) Parking for attendees: The adjacent SAWS Parking Garage, which the City normally coordinates its usage with theater events.

NOTE: All attendees who park in the SAWS garage must remove their vehicles no later than ninety (90) minutes after the conclusion of the event: by 11:30 p.m. Sunday through Thursday, and by 12:30 a.m. Friday and Saturday.

NOTE: THE UPPER PARKING LOT FOR THE JAPANESE GARDENS IS TO BE LEFT OPEN FOR VISITORS TO THE GARDENS. UNDER NO CIRCUMSTANCES IS THIS LOT TO BE CLOSED TO ANYONE, WHETHER ATTENDING THE THEATER OR THE GARDENS. ALSO, PARKING BY CONCESSIONAIRE VEHICLES WILL BE ALLOWED IN BOOTH AREA ONLY AS LONG AS LOADING OR UNLOADING IS TAKING PLACE. AT OTHER TIMES, THESE VEHICLES WILL BE PARKED IN THE LOT BEHIND THE TUESDAY MUSICAL CLUB.

11. ALCOHOL

Unless waiver is requested by Licensee where indicated on the application and granted by the Director of Parks and Recreation Department or his designee, the sale, serving, dispensing or drinking of alcoholic beverages is prohibited. In the event that waiver of

the prohibition is not granted, officers of the security force will be used to enforce this prohibition as outlined in Paragraph XIII of these policies

12. TIME LIMITS

The following time limits have been established by City Ordinance No. 48169, passed and approved on June 23, 1977:

- A. Events may begin no earlier than 12 noon on any day.
- B. Events shall terminate no later than 11 p.m. on Friday and Saturday evenings and evenings before holidays, and no later than 10 p.m. on all other days.
- C. The live amplified music phase of all Classes of events shall not exceed five (5) hours in length. An additional hour for orderly phase down of activities may be provided through written permission of the Director, Department of Parks and Recreation or his designee.
- D. Preparation may begin before 12 noon, but live, amplified voices and/or music is prohibited during preparation period.

13. NOISE CONTROL

Noise control regulations outlined in Paragraph C-6 of the Texas State Department of Health, "Rules and Regulations Relating to Minimum Standards of Health and Sanitation For Mass Gatherings and Texas Mass Gatherings Act Article 454H, Texas Penal Code" shall apply. Monitoring of sound levels will be taken at various times during the performance and should the level exceed that deemed allowable, steps will be taken to correct this. A sign, reading as follows, will be posted backstage during the event:

In accordance with City of San Antonio Ordinance No. 62550, the sound level, as measured on the periphery of the Licensed Facility, may not rise above 78 decibels. Monitoring of the sound level will be taken periodically during the event and requests will be made to turn down the volume should it exceed 78 decibels. Failure to comply with requests by the security officer present could result in cancellation of the concert, termination of the License Agreement, and forfeiture of the bond.

14. RESPONSIBILITY

In regard to all subjects contained within the policies, the Facility Supervisor will be responsible for policy interpretations and is granted the full authority of the Director of Parks and Recreation to act in his stead.

15. SECURITY

The following policy in regards to security will be adhered to:

- a.) At least 24 hours prior to the event, Licensee, or Licensee's Chief of Security for the event, and the Facility Representative will meet to discuss all aspects of security planned, to include parking, crew control and traffic control.
- b.) A minimum of twelve (12) security officers will be provided for during the term specified in the License Agreement and be assigned as agreed between the Licensee and the Facility Representative. For events with participants in excess of 3,000 (three thousand) persons Licensee will be required to hire, **at a minimum, 1 (one) additional security officer for each 300 participants. *The Department of Parks and Recreation Park Ranger Chief or his designee will determine the final number of security officers required at least 24 hours prior to the event.*** Said determination will be made in consultation with the Licensee's Chief of Security and the Facility Representative. This final number will take into account the planned size of the event, the type of event, previous history of similar events, whether or not alcoholic beverages will be sold at the event, and other pertinent variables.
- c.) Of the twelve (12) minimum required security officers, a minimum of four (4) will be provided and assigned to specific locations for **traffic control** as determined by the Department of Parks and Recreation Park Ranger Chief or his designee in consultation with the Licensee's Chief of Security and the Facility Representative. In addition to pre-event traffic control, the traffic control security officers will be assigned to the locations one-half hour prior to the stated ending time for the event and remain at these locations until relieved by the Park Ranger on duty.
- d.) Should a waiver of the alcohol prohibition not be granted the chief of security will instruct his officers that no alcoholic beverages are to be brought into the facility for any reason. Should alcohol be discovered in the facility the person in possession will be instructed to remove it from the facility. Since the security force is hired by the Licensee, it will be the responsibility of the Licensee to ensure compliance with this policy.
- e.) At any time, during the event, the Facility Representative will have the authority to request additional security personnel, through the Chief of Security, if, in his opinion, security needs dictate.
- f.) All costs for security personnel, whether the minimum 12 security officers or any additional required number of security officers, will be borne by the Licensee.
- g.) Licensee will pay for one (1) Park Ranger to be on duty for the term of the event at \$25.00 an hour.

16. THEATER OFFICE AND FACILITY OFFICE PHONE

The Sunken Garden Theater office is the office of the Facility Representative and will not be used by the Licensee as an office or for any other purpose during the event. If Licensee desires to establish an on-site office, an area in the south building where the dressing rooms are located will be used. Further, the telephone in the facility supervisor's office is the property of that office. There is a public pay phone on the north side of the north building. Should Licensee desire a telephone for his/her use during the term of the License, private arrangements must be made for temporary installation at a cost to the Licensee.

17. THEATER FURNISHINGS

The theater is provided with tables and chairs in both offices and dressing rooms. This furniture is to be kept in these areas and not removed from any of the buildings. Should Licensee or his representative desire the use of tables or chairs, Licensee will provide said items at their own cost. This provision will apply equally to any user of the Facility.

18. RESPONSIBILITY FOR INJURY TO PROPERTY

If any portion of the facility, including seating, is damaged during the term of the License Agreement by the act, default or negligence of Licensee, or by Licensee's agent or employees, patrons, guests or any person admitted to the premises by Licensee, Licensee will pay to the City, upon demand, such sums as will be necessary to restore said premises to their condition existing prior to the event. Licensee will assume full responsibility for the entire facility and the character, acts and conduct of all persons admitted to the premises with the consent of the Licensee, or by and with the consent of Licensee's employees or any person acting for and/or on behalf of the Licensee.

19. REMOVAL OF PROPERTY

All property brought into the Theater for an event by a user must be removed from the facility within 24 hours. Failure by the user to remove such equipment will result in this being accomplished by Parks and Recreation Department Maintenance at the sole cost and expense of Licensee.

20. CAPACITY

Per Ordinance No. 93687 passed by City Council on March 29,2001:

"Attendance to any event in the Sunken Garden Theater will be strictly limited to no more than 4,800 (four thousand eight hundred) individuals per event. Facility renters will not allow more than 4,800 individuals to attend any event in this facility. Any facility renter who allows attendance more than the maximum of 4,800 per event will have their event cancelled and will be precluded from rental or use of the facility in the future."

21. RIGHT OF ACCESS

Though the Licensee has completed all of the correct rental documents for use of the Sunken Garden Theater, the Department of Parks and Recreation and/or the City of San Antonio does not relinquish the authority of control vested by the San Antonio City Council through Ordinance. Facility Representative, or any employee of the Department of Parks and Recreation assigned to work at the Licensed Facility during the term of the License Agreement, will not be denied access to any area of the facility, including offices, dressing rooms and restrooms.

22. CANCELLATIONS

a.) Cancellations by City (For all classes of events)

Violations by Licensee of any covenant, agreement or condition contained in the Sunken Garden Policies and Regulations or the License Agreement shall be cause for termination herein by City, in which case Licensee shall be entitled only to refund of the unused portion of any payment made by it. If an event is cancelled through no fault of the Licensee, a substitute date may be reserved if Licensee so desires.

Failure by the Licensee and/or any of his/her representatives, including the chief of security, to comply with any of the provisions contained in the Ordinance, policies, and/or lease agreement, will be grounds for cancellation of the lease without prior notice.

b.) Cancellations by Licensee

Cancellations of reservations of the Sunken Garden Theater by Licensee will be subject to the following:

- (1) If cancellation is prior to 72 hours preceding the date reserved, the deposit will only be refunded following written request from Licensee to the Director, Department of Parks and Recreation, or his representative and approved by the Director.
- (2) If cancellation is between 72 hours and the date of the event, the deposit will be non-refundable
- (3) If the cancellation is the date of the event, the Licensee may be financially responsible for paying the minimum amount of the rental, less deposit, based on the decision of the Director of Parks and Recreation.

23. RENTAL DAY DEFINITION

“A RENTAL DAY” is defined by the Parks and Recreation Department as beginning at 7:00 a.m. and ending at 12:00 midnight.

Since most of the shows in the Sunken Garden Theater are having elaborate set-ups of roof, food booths, lighting and sound, the Licensee will be given the chance to strike their equipment using the time from 12:00 midnight to 7:00 a.m. on the next morning. This time frame will allow the next client to begin their set-up on this particular day at 7:00 a.m.

If a Licensee desires more time for their set-ups or strikes outside of the 24 hours period described above, providing there are not events booked on the days immediately before or immediately after the day of rental, Parks and Recreation Department will dispose of the theater facilities to the Licensee for an additional charge of \$65.00 an hour.

ANY DEPARTURE OR DEVIATION FROM THE FOREGOING POLICIES WILL ONLY BE AT THE DISCRETION OF THE DIRECTOR OF THE PARKS AND RECREATION DEPARTMENT, CITY OF SAN ANTONIO, TEXAS.